

The last Office Action dated November 9, 2006 has been carefully considered. It is noted that Claim 9 was rejected due to the use of numerals 1,2,3, and 4 to describe the four threshold temperatures that were addressed in the claim. Claim 9 has now been changed to address this objection. References in claim 9, to threshold temperature 1, threshold temperature 2, threshold temperature 3 and threshold temperature 4 have been changed to first threshold temperature, second threshold temperature, third threshold temperature and fourth threshold temperature, respectively. In addition, claim 9 has been clarified by changing the reference to a "substantially vertical bottom wall" to, "a fluid retaining bottom united with said substantially vertical wall"

The office action also objected to claim 9 based on 35 U.S.C. 112, as failing to comply with the enabling requirement. The applicant subsequently contacted examiner Verbitsky over the phone to discuss this matter. Through this consultation, it was determined that her objection was based on her belief that the specifications section of the patent did not mention the use of multiple thermochromic inks with different thermal properties. During that conversation, the applicant pointed out that there was language in the specifications which did describe multiple thermochromic inks with different thermal properties. The examiner verbally acknowledged that the language cited by the applicant was sufficient to satisfy her objection. The relevant passage follows:

[0011] Referring now to FIG. 1 we see a perspective view of the temperature indicating beverage cup of the present invention. Ceramic beverage mug 2 is a typical construction mug construction. When a hot beverage 4 such as coffee or tea is poured into the mug 2 a thermochromatic display 6 is activated the display is such that when a certain temperature is reached a segment of the display turns from opaque to clear to reveal a temperature indication such as "hot" 8 is shown. Such a material is available from Chromatic Technologies Incorporated. FIG. 2 shows the preferred embodiment of the thermochromatic display. When the cup 2 is at room temperature all the segments 10, 12, 14, 8, 16 are opaque. When the temperature of forty degree's C. is reached the "luke warm" segment 10 begins to be revealed as the temperature sensitive, thermochromatic printed overlay becomes transparent. As the temperature reaches forty five degrees C. the "luke warm" segment is completely revealed because the temperature sensitive coating applied on top of the segment 10 has turned from opaque to transparent. As the temperature rises further the next segment 12 turns from opaque to transparent. This process continues segment by segment until the hottest segment 16 is reached. In the preferred embodiment shown the display is broken into five segments. The first segment 10 starts to become clear between forty degrees C. and is completely transparent at forty

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five degrees C. The second segment 12 starts to become clear at forty five degrees C. and is completely transparent at fifty degrees C. The third segment 14 starts to become clear at fifty degrees C. and is completely transparent at fifty five degrees C. the fourth segment 8 starts to become clear at fifty five degrees C. and is completely transparent at sixty degrees C. The fifth segment starts to become clear at sixty degrees C. and becomes completely transparent at sixty five degrees C.

The examiners final objection was to claims 9-16, based on 35 U.S.C. 103(a) as being obvious with regard to Maruyama in view of Palmer (5128616) and St. Phillips (U.S. 4933525). The applicant respectfully seeks to traverse this decision as the Examiner has not established a prima facie case of obviousness with respect to these claims.

Addressing Palmer, the applicant would like to point out that the Palmer patent does not address the applicant's field of endeavor. Palmer relates to battery charge indicators while the applicant's patent application refers to temperature indicators on coffee mugs.

Addressing St. Phillips, the applicant would like to point out that the St. Phillips patent refers to the use of Liquid Crystals, while the applicant's patent application refers to Thermochromic Ink.

Addressing Maruyama, the applicant would like to point out that the Maruyama patent refers to a single thermochromic ink segment, while the applicant's patent application refers to multiple thermochromic ink segments with different thermal characteristics.

Accordingly, as the Examiner has failed to meet the burden of establishing a prima facie case with the art cited, and such art is not sufficiently analogous to be cited in an obviousness rejection against the applicant, the rejection of Claims 9-16 should be considered improper. The Applicant hereby requests that the rejection be withdrawn and the application be allowed to pass to issue.